

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F McTIGUE
DIRECTOR

May 12, 1992
AO-92-08

Jeffrey A. Bean, Mayor
City of Fitchburg
Executive Department
City Hall
Fitchburg, MA 01420

Re: Travel Expenses

Dear Mr. Bean:

This letter is in response to your March 12, 1992, request for an advisory opinion regarding the appropriateness of certain expenditures by your political committee. I apologize for the delay in my response.

You have stated that you and your family have been invited to participate in Kleve's 750th Anniversary celebration in Kleve, Germany on April 25, 1992. The invitation stems from the fact that the Cities of Fitchburg and Kleve have enjoyed an exchange program over the past five years including student, adult, cultural and sports exchanges. You are currently Mayor of Fitchburg and also Honorary Chairperson of the Fitchburg/Kleve Sister City Program.

You have also stated that you are planning to attend the event with your wife and two children. Your wife is the treasurer of your political committee and also served as a former chairperson of the Fitchburg/Kleve Student Exchange Program.

While in Europe, you intend to visit two companies, PWA Decor, Inc. and Netstals Company. The former is a major employer here in Fitchburg and has their corporate headquarters in Aalen, Germany. You will be spending a day with officials from PWA to discuss future plans for their Fitchburg plant. The latter is located in Nafaels, Switzerland, and has its North American headquarters located in Fitchburg. You believe that your participation in both the sister city festivities and visits to important employers connected with Fitchburg's economy is, particularly in these economically distressed times, critical for your political future.

Within the context of this factual background, you have

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asked if your political committee can pay for the airfare, accommodations (including meals), car rental and other associated costs to travel to PWA and Netstals for you and your family. You have also asked if your political committee can pay for a reception held for the Kleve officials celebrating the sister city relationship.

M.G.L. c.55, s.6 provides, in pertinent part, that political committees such as yours may

expend money or other things of value for the enhancement of the political future of the candidate . . . for which the committee was organized so long as such expenditure is not primarily for the candidate's or any other person's personal use. (emphasis added)

In addition, regulations promulgated by this Office provide at 970 CMR 2.06 (d) that your political committee may pay for:

reasonable travel expenses for a candidate in connection with functions or activities where the candidate's participation is important to political relations with his constituents or contributors, provided that the primary interest in participating in the event is for the enhancement of the political future of the candidate. (emphasis added)

Reading these provisions of the law and regulations together it is this Office's opinion that your political committee may pay for reasonable travel expenses including airfare, accommodations and car rental costs for your trip. The Office recognizes that your participation in this trip serves a dual purpose, one official and the other political. In your capacity as Mayor you will be representing Fitchburg. At the same time the trip is important to political relations with your constituents and, therefore, to your political future as a candidate. Further, while the trip serves a dual purpose it does so in a way that is not divisible into "political" and "official" categories based upon the information set forth in your letter. Therefore, even though the trip may help you perform your responsibilities as Mayor, it is not primarily "personal" as this Office has construed that term.¹

The term "personal" as used in M.G.L. c.55, s.6 and the regulations promulgated by this Office is a term of art which includes any non-political use such as business, governmental, legislative, family or social use. See AO-91-06. Hence, if the primary purpose of the trip were official business, your political committee could not pay for related travel expenses.

1. This Office has, in the past, approved expenditures by political committees for reasonable travel expenses by elected officials in connection with such "sister city" events. See McTigue Letter to Senator MacLean dated June 12, 1991.

Similarly, if there are clearly identifiable and discreet portions of your trip which are primarily governmental they may not be paid for by your political committee.² For example, you have asked if your political committee can pay for a reception for the Kleeve officials celebrating the sister city relationship. While almost every act of an elected official arguably has some "political" dimension, it would appear that this reception is being undertaken by you primarily in your capacity as Mayor of Fitchburg. If that is the case, it would be this Office's opinion that such a reception could not be paid for by your political committee.

With respect to your wife, who also serves as treasurer of your political committee, the regulations provide that political committees may pay for certain travel expenses for "agents of the committee." See 970 CMR 2.05(2)(j) and 2.05(2)(l). While section 2.05(2)(j) is limited to activities within Massachusetts, section 2.05(2)(l) provides for payment of reasonable travel and related expenditures for:

[A]gents of a political committee in connection with meetings, conferences or conventions, provided that the issues with which any such meeting, conference or convention is concerned are within the scope of that person's direct and substantial responsibilities as a . . . agent of the committee . . .

In addition, the regulation requires that the subject matter of the meeting, conference or convention relates to party politics, campaigning for votes, fundraising or "substantive issues which are directly related to the campaign of the candidate." Although it would seem unlikely in the context of such an international trip, this Office cannot conclusively determine from the facts presented whether your wife's decision to accompany you on this trip is "within the scope of her direct and substantial responsibilities" as treasurer (or agent) of the committee and otherwise complies with the regulation's requirements. If you wish, you may seek further guidance on this matter.³

2. Of course, if any portion of your trip is paid for by the City of Fitchburg, that portion could not also be paid for by your political committee.

3. I note that the regulations permit multi-candidate committees to make expenditures specifically related to a committee's treasurer provided certain conditions are met. These include finding that "the [treasurer's] participation [at the function] is critical to political relations with constituents or contributors to the political committee." See 970 CMR 2.06(f). Assuming that the Office concluded that this standard applied to candidate committees, it appears unlikely that your wife's participation on this trip is "critical" to constituent and/or contributor relations.

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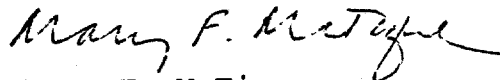
Finally, it is my understanding that your children are not officers, employees or agents of your political committee but are accompanying you in a personal capacity as members of your family. Therefore, your political committee may not pay for any of their travel expenses.

For all the above reasons, it is this Office's opinion that your political committee may pay for reasonable travel expenses including airfare, accommodations and car rental costs for your trip but may not pay for similar expenses for your children and may pay for such expenses for your wife only if your wife's participation meets the standards set forth in the relevant regulations noted herein. Finally, your political committee may not pay for those clearly discreet expenses which primarily concern your official duties as Mayor.

This opinion is based solely upon the representations set forth in your letter and has been rendered solely in the context of M.G.L. c.55.

Please do not hesitate to contact this Office if you should have any additional questions regarding this or any other campaign finance matter.

Very truly yours,



Mary F. McTigue
Director

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